

MINUTES OF FEBRUARY 1, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, February 1, 2016, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Rickard.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 11704 – The James P. McRorie Family Trust – seek variances from the side yard setback requirements (Sections 115-25C and 115-183C) of the Sussex County Zoning Ordinance). The property is located on the south side of Spruce Court approximately 213 feet west of Sycamore Drive. 911 Address: 32860 Spruce Court, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-11.20-94.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

David Plivelich was sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case on behalf of the Applicant and submitted a signed affidavit from Romualda McRorie, who was unable to attend the public hearing, and exhibits to the Board to review.

Mrs. Burton stated that the Applicant is requesting a variance of 2.3 feet from the ten (10) feet side yard setback requirement on the east side for an existing dwelling and a variance of 0.56 feet from the five (5) feet side yard setback requirement on the east side for an existing set of steps / porch; that Mr. Plivelich is a realtor; that Romualda McRorie is the Co-Trustee of the James P. McRorie Family Trust and is unable to attend the hearing; that Ms. McRorie and her husband purchased the Property in 1968; that a building permit for the dwelling and steps / porch was obtained in 1972; that the setback requirement in 1972 was twenty-five (25) feet which is different from the current setback requirements; that Mr. and Mrs. McRorie transferred the Property to a family trust in 1996; that the Applicant's husband passed in 2008 and Ms. McRorie disclaimed her interest as a beneficiary in the trust; that Applicant entered into an agreement to sell the Property;

that a survey completed for settlement showed the encroachments; that the Applicant was unaware of any encroachments prior to that time; that a front yard setback variance was not required since the setback requirement changed since the construction of the dwelling; that there have been no changes to the Property since construction in 1972; that the Property is unique as it is long, narrow, and irregularly shaped; that the Property is located in the Angola by the Bay subdivision; that the unique conditions of the Property have created the exceptional practical difficulty; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicant; that the variances will not alter the essential character of the neighborhood; that there have been no complaints from the neighbors; that the use does not impair the uses of the neighboring and adjacent properties; that the use is not detrimental to the public welfare; that the variances sought are the minimum variances to afford relief; and that the variances are the least modifications of the regulations at issue.

Mr. Plivelich, under oath, affirmed the statements made by Mrs. Burton and testified that he is a realtor and familiar with the area; that the Property is now connected to Sussex County sewer; and that there have been no prior complaints made in reference to the Property.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11704 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique because it is long, narrow and irregularly shaped;
2. The variances are necessary to enable reasonable use of the Property;
3. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11705 – Patrick B. Sulecki and Lisa M. Sulecki – seek variances from the side yard setback requirements (Section 115-42B, 115-181B, and 115-183C of the Sussex County Zoning Ordinance). The property is located on the northwest side of Mallard Drive approximately 0.35 miles northeast of Swann Drive. 911 Address: 37071 Mallard Drive, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-102.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Patrick Sulecki was sworn in to testify about the Application. Ken Feaster, Esquire, presented the case on behalf of the Applicants.

Mr. Feaster stated that the Applicants are requesting a variance of 0.4 from the ten (10) feet side yard setback requirement on the south side for a screen porch, a variance of 7.8 feet from the ten (10) foot feet yard setback requirement on the north side for a set of steps, a variance of 7.6 feet from the ten (10) feet side yard setback requirement on the north side for a HVAC unit, and a variance of 4 feet from the ten (10) feet side yard setback requirement on the north side for an existing dwelling; that a building permit for the dwelling was issued in 1993; that a Certificate of Compliance was also issued in 1993; that the screened-in porch was built in 2001 on the south side of the Property; that the Applicants purchased the Property in August 2015; that a survey completed for settlement showed the encroachments; that the dimensions of the lot and home make this Property unique; that the Applicants face exceptional practical difficulty because, without the variances, the structures would have to be demolished; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code since the structures are permanent; that the Applicants purchased the Property in its current state; that the exceptional practical difficulty was not created by the Applicants; that the variances do not alter the essential character of the neighborhood; that the structures are part of the character of the neighborhood; that the use does not impair the uses of the neighboring and adjacent properties; that the variances sought are the minimum variances to afford relief; that the variances are the least modifications of the regulations at issue; and that the steps on the north side of the Property are proposed to be replaced on the current footprint.

Mr. Sulecki, under oath, affirmed the statements made by Mr. Feaster and testified that the existing dwelling is a one story structure; and that a significant portion of the rear of the Property is located in the lagoon.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11705 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The lot size and history of Swann Keys make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The Applicants did not place the structures on the lot;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11706 – Michael Zarechnak – seeks variances from the front yard, side yard and rear yard setback requirements (Section 115-34B and 115-185F of the Sussex County Zoning Ordinance). The property is located on the south side of Robinsons Drive approximately 98 feet east of Fisher Street. 911 Address: 38236 Robinsons Drive, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-20.09-38.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Irene Zarechnak was sworn in to testify about the Application. Craig Aleman, Esquire, presented the case and submitted exhibits for the Board to review.

Mr. Aleman stated that the Applicant is requesting a variance of 11.5 feet from the thirty (30) feet front yard setback requirement for a proposed addition, a variance of 2.9 feet from the ten (10) feet side yard setback requirement on the south side for an existing dwelling, a variance of 2.6 feet from the five (5) feet rear yard setback requirement for an existing shed, and a variance of 4.4 feet from the five (5) feet side yard setback requirement on the north side for an existing shed; that the existing dwelling was built in the early 1960s; that the neighborhood has changed significantly since that time; that the Applicant's home is the last one in the neighborhood to be remodeled; that the proposed additions will not exceed the existing footprint of the existing dwelling; that the Property is small; that a roof will be added at the entrance to shield the Applicant from rain; that the proposed additions and variances are similar to others in the neighborhood; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicant; that the dwelling was built prior to the enactment of the Sussex County Zoning Code; that the variances will not alter the essential character of the neighborhood; that the use is not detrimental to the public welfare; that the variances are the minimum variances to afford relief and represent the least modifications of the regulations at issue; that shed can be moved into compliance; and that the Applicant does not need the variances requested for the existing shed.

Ms. Zarechnak, under oath, affirmed the statements made by Mr. Aleman.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11706 for the requested variances for the existing dwelling and proposed additions be approved based on the record made at the public hearing and for the following reasons:

1. The non-conforming dwelling and small lot make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;

3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

As part of his motion, Mr. Rickard moved that the variances for the existing shed be denied based on the record made at the public hearing and because the Applicant stated that the shed will be moved into compliance; therefore, the variances are not necessary.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the **front and side yard variances for the existing dwelling and proposed additions be granted and the side and rear yard variances for the existing shed be denied.** Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11707 – Cory Bryan and Kristin Bryan – seek a variance from the rear yard setback requirement (Section 115-25C of the Sussex County Zoning Ordinance). The property is located on the west side of Governor Stockley Road approximately 1,308 feet north of East Piney Grove Road. 911 Address: 26330 Governor Stockley Road, Georgetown. Zoning District: AR-1. Tax Map No.: 1-33-10.00-9.07.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Cory Bryan was sworn in and testified requesting a variance of 14.5 feet from the twenty (20) feet rear yard setback requirement for a proposed detached garage; that he intends to construct a detached garage in the rear yard; that the Property is unique due to its narrow width and the location of the existing structures and mound septic system; that there is no other location for the proposed detached garage; that, if the garage was built in compliance with the setback requirements, water would drain into the garage; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that, due to the location of the drain field and the separation distance needed from a septic system, the garage would not be accessible from any other location; that the difficulty was not created by the Applicants; that the septic system is located directly behind the deck and metal pole building; that the garage will enable reasonable use of the Property; that there is approximately six (6) acres of wooded land to the lands adjacent to the rear of the Property; that, if he constructed the garage in compliance with the Code, the garage would be right next to the septic drain field and would create drainage problems; that he plans to park three (3) vehicles in the proposed detached garage; that the existing pole building on the Property is used for his wife's home business; that he did not choose the location of the septic system; that the Department of Natural Resources and Environmental Control ("DNREC") chose the location of the septic system due to the proximity of the system from a well on neighboring property; that he could lengthen the garage and reduce its depth but he would not then be able to store vehicles in the garage; that the depth of the garage is necessary for him to store his vehicles; and that the proposed building will line up with the existing driveway. Mr. Bryan submitted a letter of support from his neighbor.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11707 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The width of the Property and location of the septic system make the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. There have been no objections to the proposed variance; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11708 – John W. Hurd, Jr. and John A. Murphy, III – seek variances from the side yard and front yard setback requirements (Sections 115-34B, 115-182D, and 115-185F of the Sussex County Zoning Ordinance). The property is located on the south side of William F. Street approximately 242 feet east of Coastal Highway. 911 Address: 38272 William F. Street, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-20.09-95.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received two (2) letters of support to the Application and read the letters into the record and had not received any correspondence in opposition to the Application.

John Hurd, Jr. was sworn in to testify about the Application. Chad Meredith, Esquire, presented the case to the Board on behalf of the Applicants.

Mr. Meredith stated that the Applicants are requesting a variance of 3.4 feet from the five (5) feet side yard setback requirement for an existing shed, a variance of 6.2 feet from the thirty (30) feet front yard setback requirement for an existing deck, and a variance of 8.2 feet from the thirty (30) feet front yard setback requirement for an existing set of steps; that the Property is located in the Dodd's Addition subdivision which was created in the 1930s and 1940s; that the area is highly developed; that an open building permit from 1983 for a fence was discovered; that the encroachments were discovered when a Sussex County official visited the Property to see if a Certificate of Compliance could be issued for the fence and shed; that a survey verified the encroachments on the Property; that the existing deck is open and unenclosed on the first floor level; that the Sussex County Zoning Code allows for a deck to encroach five (5) feet into the front yard setback area but the deck encroaches more than five (5) feet; that the existing shed consists of less than 600 square feet but is located in the side yard and encroaches into the side yard setback

area; that the Applicants purchased the Property in September 2015; that there have been no prior complaints about the Property; that a building permit was issued for the dwelling in 1982 and a Certificate of Compliance was issued for the dwelling in 1983; that the Applicants believe the deck was also built at that time; that the Property has unique circumstances and conditions; that the Property is long and narrow; that there is approximately ten (10) feet between the front property line and the edge of William F. Street which makes the front yard appear larger; that an exceptional practical difficulty exists; that the existing fence, hedgerow, and home make it impossible to move the shed into compliance; that the Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicants; that prior owners placed the structures on the Property; that the variances will not alter the essential character of the neighborhood; that there are other sheds in the neighborhood which appear to be similarly situated; that the variances are the minimum variances to afford relief; that the variances are the least modifications of the regulations at issue; and that the use is not detrimental to the public welfare.

Mr. Hurd, under oath, affirmed the statements made by Mr. Meredith.

Ms. Cornwell clarified that the front yard variance is 6.2 feet for the deck and 8.2 feet for the existing steps.

Mr. Meredith stated that the shed is located on block foundation; and that the side yard on the other side of the house is narrow and he doubts that it could be moved into compliance.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11708 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property measures 50 feet by 100 feet making it unique in size;
2. The exceptional practical difficulty was not created by the Applicants;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11709 – Matthew Stevens – seeks a special use exception for a garage / studio apartment (Section 115-23C(6) of the Sussex County Zoning Ordinance). The property is located on the east side of Atlanta Road approximately 160 feet north of Craft Road. 911 Address: 18921 Atlanta Road, Bridgeville. Zoning District: AR-1. Tax Map No.: 1-31-12.00-45.02.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter in opposition to the Application and read it into the record and had not received any correspondence in support of the Application.

Mr. Sharp advised the Board that his firm has represented the Applicant in the past and that if the Board had any questions, they should direct them to Vince Robertson, Esquire. Mr. Sharp left the County Council Chambers for the duration of the public hearing.

Matthew Stevens was sworn in and testified requesting a special use exception for a garage / studio apartment; that he obtained a building permit and a Certificate of Compliance for the existing building; that he plans to create a living space in the existing structure for temporary use; that he is currently trying to sell his other property where he currently resides; that he will use the apartment until he builds his new dwelling on this property; that after the new dwelling is built the apartment will not be lived in; that he does not live in the camper on the Property; that the apartment is on the second floor of the existing building; that the apartment will be built in compliance with the current codes; that there will be an exterior stairwell constructed to gain access to the second floor apartment from the outside of the building; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

John Whalen was sworn in and testified in support of the Application and testified that he is an adjacent property owner; that he owns a 48 acre horse farm; that he has no objection to the Application; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 11709 for the requested special use exception because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11710 – Raymond Wallace and Nancy Wallace – seek variances from the side yard setbacks (Section 115-42B, 115-181B, and 115-183C of the Sussex County Zoning Ordinance). The property is located on the northwest side of Blue Teal Road approximately 1,314 feet northeast of Swann Drive. 911 Address: 37051 Blue Teal Drive, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-435.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Bryan Elliott, of Integrity Builders, was sworn in and testified requesting a variance of four (4) feet from the ten (10) feet side yard setback requirement on the north side for a dwelling, a variance of eight (8) feet from the ten (10) feet side yard setback requirement on the south side for a set of steps and a deck, a variance of 7.6 feet from the ten (10) feet side yard setback requirement on the north side for a HVAC unit, and a variance of four (4) feet from the ten (10) feet side yard setback requirement on the south side for a proposed dwelling; that the Property is unique because it is narrow and is only 40 feet wide; that the Property is located in Swann Keys; that parking is an issue in the development; that the Property cannot otherwise be developed in strict conformity to the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property; that it is difficult to place a dwelling on the lot while also providing for parking; that the proposed dwelling will only consist of 1,300 square feet and is a very small home; that the exceptional practical difficulty was not created by the Applicants; that Swann Keys was originally developed as a mobile home park but has transitioned to a community with stick-built homes; that the existing manufactured home is in poor shape and has flooded two (2) different times; that the variances will not alter the character of the neighborhood; that the variances requested represent the least modifications of the regulations at issue and are the minimum variances necessary to afford relief; that the dwelling will only be 26 feet wide and is rather narrow; that the proposed dwelling will meet the flood zone requirements and be placed on pilings; that parking will be under the existing dwelling; that the steps cannot be moved to the front of the dwelling and still allow for parking under the dwelling; that the HVAC cannot be moved under the dwelling because it would block parking areas; that a portion of the neighbor's sidewalk encroaches onto the Property; that a narrower dwelling would not be compliant with the Americans with Disabilities Act; and that the neighbors have no objection to the Application.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11710 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is only 40 feet by 103 feet which is small and unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11710 – David Strolle – seeks a variance from the rear yard setback requirement (Section 115-34B of the Sussex County Zoning Ordinance). The property is located on the north side of Seashore Lane approximately 187 feet east of Sandcastle Cove. 911 Address: 33123 Seashore Lane, Lewes. Zoning District: MR. Tax Map No.: 3-34-5.00-1099.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received two (2) letters in support of the Application and read the letters into the record and had not received any correspondence in opposition to the Application.

Pamela McDonald was sworn in and testified requesting a variance of two (2) feet from the ten (10) feet rear yard setback requirement for a proposed three season room addition; that the Applicants retained Del Coast Design & Build to build a three season room on an existing deck; that the existing deck was built in 2010 and measures 10 feet by 26 feet; that the existing deck was constructed by Ryan Homes; that Ryan Homes led the Applicant to believe a three season room could be added at a later date without issue; that the proposed three season room will measure 15 feet by 12 feet; that the Property is unique due to its shallow depth; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that a three season room of only 10 feet deep would not afford the Applicant with enough space to reasonably use the room; that there is a fireplace hut to the rear of the dwelling which also limits the space available for the addition; that support walls and existing windows prevent the three season room from being built in the side yard; that the exceptional practical difficulty was not created by the Applicant; that the Applicant relied on representations by the builder that the addition could be built; that the addition will not alter the essential character of the neighborhood; that the proposed three season room is similar to others in the neighborhood; that none of the adjacent property owners object to the Application; that the variance requested is the least modification of the regulation at issue; that a portion of the existing deck will not be enclosed; that the three season room is necessary to enable reasonable use of the Property due to the Applicant's sensitivity to light and insects; and that the variance requested is the minimum variance to afford relief.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11711 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size as it measures 96 feet by 104 feet;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11712 – Atlantic Contracting and Material Co. – seeks a special use exception for a temporary concrete batch plant (Sections 115-23A and 115-210A(1) of the Sussex County Zoning Ordinance). The property is located on the west side of DuPont Boulevard approximately 970 feet north of West Hudson Road. 911 Address: None Available. Zoning District: AR-1. Tax Map No.: 2-30-19.00-14.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter of support to the Application and read the letter into the record and had not received any correspondence in opposition to the Application.

Winfield Patrick Smith and Dave Wilson were sworn in to testify about the Application. Dennis Schrader, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Schrader stated that the Applicant is requesting a special use exception for a temporary concrete batch plant; that the proposed plant will be located on Property along Route 113 north of Georgetown; and that the Property consists of approximately thirty-six (36) acres and is currently used as a storage area.

Mr. Smith testified that he is a Senior Project Manager for Atlantic Contracting & Material; that the Applicant has been subcontracted for the repaving of a portion of Route 113; that the south bound lanes of Route 113 will be demolished and repaved; that the project will begin in February and last through June 2016; that the concrete batching plant will only be needed through June; that the plant will be used to provide concrete for the subcontractors working on the road; that the temporary plant takes longer to set up than to use; that the temporary plant will be used for approximately three (3) weeks to produce the cement needed for the Route 113 project; that there are existing trees on the Property that will provide a buffer from the neighboring properties; that the nearest residential dwelling is approximately 340 feet away from the proposed site; that there will be minimal dust, noise, or odors from the plant; that they obtained a permit through the Department of Natural Resources and Environmental Control (“DNREC”) for air quality; that they take steps to mitigate the dust emitted from the site; that there is minimal noise from the plant as the noise will be similar to a busy street; that the hours of operation will be from 7:00 a.m. to 6:00 p.m., six (6) days a week; that weather permitted there will be no late night operations or work on Sundays but Sunday operation may be needed based on the weather; that there is minimal lighting proposed for the site and all lighting will not shine downwards; that there is existing fencing along portions of the Property and a gate at the entrance of the Property; that the use will not substantially adversely affect the uses of the neighboring or adjacent properties; and that the Applicant has operated closer to homes in the past and he does not anticipate any problems with neighbors.

Mr. Wilson testified in support of the Application and testified that he is the property owner; that Hudson Pond Acres is located north of the Property; that the site was used for the same type of use in the past when Route 113 was widened; that the Property is used as storage and as a

hay field; that the people living in the area are looking forward to the improvements of Route 113; that the road construction is projected to be completed by Memorial Day weekend; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; and that he affirmed the testimony made by Mr. Schrader.

The Board found that three (3) parties appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception Application No. 11712 for the requested special use exception based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Meeting Adjourned 9:16 p.m.